

N.R.A. CODES FILM NO.

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ARRANGED BY
T. R. SCHELLENBERG
Executive Secretary
Joint Committee on Materials for Research
(WASHINGTON, D. C. 1934)

HEARINGS ON THE CODES OF FAIR COMPETITION
held under the
National Industrial Recovery Act
deposited at the
Code Record Station
of the
National Industrial Recovery Administration

Hearing Number 1
Hearing Title: Abrasive Grain

Copied by the
Joint Committee on Materials for Research
of the
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Washington, D. C., 1934

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ABRASIVE GRAIN INDUSTRY

March 21, 1934

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Representing the Abrasive Grain Association
Code Committee

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NATIONAL RECOVERY ADMINISTRATION

Washington, D. C.

March 21, 1934

HEARING ON
CODE OF FAIR COMPETITION
FOR THE
ABRASIVE GRAIN INDUSTRY

The above-entitled matter came on for hearing at 10:00
o'clock a.m., Room 157, Willard Hotel, Assistant Deputy Ad-
ministrator Joseph Milworth presiding.

There were present also:

Of the Industrial Advisory Board:

Carroll Burton

Of the Labor Advisory Board

Fred V. Guiter

Virgil Banksen

Of the Consumers' Advisory Board:

E. L. Oliver

Of the Planning and Research Division:

R. K. Lyle

Of the Legal Division:

L. T. Mahoney

PROCEEDINGS

Assistant Deputy Dilworth: Gentlemen, we will start the meeting. This is a public hearing on the Code of Fair Competition for the Abrasive Grain Industry.

This hearing is called in accordance with Notice of Hearing No. 304, March 1st.

These hearings are not judicial or legislative in character. No arguments on the floor as to law or legal rights are permitted.

The hearings constitute a convenient method of giving evidence, and also persons who are heard are heard as witnesses.

Witnesses may appear on proposals for elimination of specific portions of a code, proposals for a modification, or on proposals for additions thereto.

The Administrator is the sole Judge as to who will be witnesses and technically witnesses should file applications to be heard twenty-four hours in advance. However, because of the fact that we desire to get all the evidence possible, if there is anyone present who has not filed a request to be heard I will call on him at the proper time, if he will present his name to the Chair. There is no rebuttal permitted on the floor, but anyone is free to file a brief, and if the material is in hand immediately and it is asked that it be heard I will hear it. If written briefs are filed they will be given exactly the same attention as if a statement were made on

the floor.

All questions will be directed through the Administrator, but in view of the small meeting we are not going to be formal about that.

Now, I suppose, Mr. Parker, you want to speak for the Code.

Mr. Parker: Yes sir.

Assistant Deputy Dilworth: I want the presentation of the Code and proof that the Association is truly representative of the industry, proof that the Code Committee has the authority to present and file the Code which you have.

Mr. Alan V. Parker

(The code referred to is as follows:)

PROPOSED
CODE OF FAIR COMPETITION
OF THE
ABRASIVE GRAIN INDUSTRY (AS REVISED FOR PUBLIC
HEARING)

ARTICLE I PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Abrasive Grain Industry, and upon approval by the President, shall be the standard of fair competition for this industry.

ARTICLE II DEFINITION

SECTION 1. The term "Abrasive Grain Industry" or "Industry" is defined to mean the manufacture in electric furnaces of mineral abrasives and/or the reduction of electric furnace mineral abrasives or natural mineral abrasives, to grain size and the sale of these products by the manufacturer.

SECTION 2. The term "Association" means the Abrasive Grain Association.

SECTION 3. The term "Employee" as used herein includes any and all persons engaged in the industry however compensated except a member of the industry.

SECTION 4. The term "Employer" as used herein includes anyone by whom and such an employee is compensated or employed.

SECTION 5. The term "earner" as used herein, means a

person having no previous experience in the manufacture or processing of mineral abrasives, and whose period of employment as such shall not exceed three months.

SECTION 6. The term "member of the industry" includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry either as an employer or on his or its own behalf.

SECTION 7. The "Southern Section" of the industry shall include the states of Alabama, Arkansas, Mississippi, Florida, Georgia, Louisiana, and South Carolina.

The "Northern Section" of the industry shall include the remainder of the United States.

SECTION 8. The term "Act" means Title I of the National Industrial Recovery Act.

SECTION 9. The term "Administrator" means the Administrator for Industrial Recovery.

SECTION 10. The term "Administration" means the National Recovery Administration.

SECTION 11. The "President" as used herein means the President of the United States.

SECTION 12. "Effective date" as used herein, means the third Monday after the day this Code shall have been approved by the President of the United States.

ARTICLE III. HOURS

SECTION 1. No employee, except as hereinafter provided,

shall work or be permitted to work in excess of forty hours in any seven-day period; provided, however, that during any period in which a concentrated demand upon any division of the industry shall place an unusual and temporary burden for production upon its facilities, an employee of such division may be permitted to work not more than thirty-six additional hours in any three (3) months' period, but not more than forty-eight hours in any seven-day period or more than eight hours in any twenty-four hour period; and provided further that there shall be no intentional duplication of such additional hours worked by employing one gang of workmen after another for this purpose.

SECTION 2. No accounting, clerical, office, service, or sales employee (except outside salesmen) or any other employee, except as hereinafter provided, shall work or be permitted to work in excess of forty (40) hours in any one week or nine (9) hours in any one day. A normal day shall not exceed eight (8) hours.

SECTION 3. The maximum hours fixed in the foregoing paragraphs shall not apply to employees in a managerial, supervisory, or executive capacity receiving more than \$35.00 per week.

Furthermore, employees on emergency maintenance and repair work involving break-downs or protection of life and property, may be employed in excess of the maximum hours fixed in the foregoing paragraph.

SECTION 4. All employees to whom Sections 1 and 2 of this

Article III apply, except managerial, executive, and supervisory employees, receiving \$35.00 or more per week, who work more than eight hours in any twenty-four-hour period, shall be paid not less than one and one half times their normal rate of pay for such excess.

SECTION 5. No watchman shall be permitted to work in excess of fifty-six (56) hours in any one week.

SECTION 6. Employees engaged in shipping crews, including truck drivers, shall be permitted a tolerance of ten per cent over the forty (40) hours provided in Section 2 of this Article III.

SECTION 7. No employee shall be permitted to work in excess of six (6) days in any one week.

SECTION 8. No employer shall knowingly permit any employee to work for any time which when totalled with that already performed with another employer or employee exceeds the maximum permitted herein.

ARTICLE IV. WAGES

SECTION 1. No employee except as herein provided shall be paid at less than the rate of 40¢ an hour in the Northern Section and 35¢ an hour in the Southern Section, per week of forty hours, which are guaranteed minimum rates of pay regardless of whether the employee is compensated on the basis of a time rate or on a piece-work performance or otherwise, provided, however, that watchmen and learners, as defined herein, may be paid not less

than 60% of such minimum wages, but the number of employees so paid as learners shall not exceed 5% of the total number of employees.

SECTION 2. The wage rates for all operations and duties shall be equitably adjusted when this Code becomes effective, and in making such adjustments, in no case shall the hourly rate be decreased. Each member of the Industry shall report all such adjustments to the Code Authority within thirty (30) days of the effective date.

SECTION 3. No employer shall re-classify employees or duties of occupations performed, or change in any other manner for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 4. All employers shall make payment of all wages due in lawful currency or by negotiable check therefor, payable on demand. Wages shall be paid at the end of each weekly period. These wages shall be exempt from any payment for pensions, insurance, or sick benefits other than those voluntarily paid by employees. Employers or their agents shall not accept directly or indirectly, rebates on such wages or give anything of value nor extend any favor to any person for the purpose of influencing rates of wages or working conditions of their employees.

The provisions of this section regarding payment of wages at the end of each weekly period shall not apply to pay on

employed in a managerial or executive capacity who earn not less than thirty-five dollars (\$35.00) per week, nor to persons employed in clerical or office work. The wages for persons employed in clerical or office work shall be paid at the end of pay periods but not to exceed bi-monthly periods.

SECTION 5. The minimum wage that shall be paid to employees to whom Section 2 of Article III applies shall not be less than fifteen (15) dollars per week; provided however, that office boys and girls and messengers shall be paid at a rate not less than eighty (80) per cent of the minimum salary provided in this Section 2 of Article IV; and provided, further, that the number of such office boys and girls and messengers so paid shall constitute not more than five (5) per cent of the total number of employees of any one employer, but in any case such employer shall be entitled to two (2) such employees.

SECTION 6. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the Employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V. GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall

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be employed in the Industry and no one under eighteen (18) years of age shall be employed in operations or occupations hazardous in nature or detrimental to health. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the Authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age. Each member of the Industry shall submit to the Code Authority within thirty (30) days after the effective date of this Code a list of hazardous occupations.

SECTION 2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives, or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

SECTION 3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

SECTION 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 5. No provision in this Code shall supersede any

State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, or insurance or fire protection, than are imposed by this Code.

SECTION 6. All employers shall post copies of Articles III, IV, and V of this Code in conspicuous places accessible to employees.

SECTION 7. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

ARTICLE VI ADMINISTRATION

SECTION 1. (a) To effectuate the policies of Title I of the Act, a Code Authority is hereby constituted. The Code Authority shall consist of four (4) persons who are members of the Association and one member of the industry who is not a member of the Association (if any there be) selected by a fair method of selection, provided the nonmember or nonmembers of the Association who are members of the industry desire such representation.

The Administrator may appoint one to three members without vote to represent the Administrator or such groups or interests as may be agreed upon.

(b) Participation in the benefits of this Code shall be extended to all members of the industry who assent to and comply with the requirements of this Code upon: (1) Becoming a

member of the Association; or (2) payment of an equitable pro-rata share of the expense of administering the Code. Such pro-rata share of the expense of administration shall be determined by Code Authority subject to review by the Administrator on the basis of the volume of business and/or such other factors as may be deemed equitable.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority, shall (1) impose no inequitable restriction on membership, and (2) submit to the Administrator true copies of its articles of associations, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Code Authority shall, at all times, be truly representative of the industry, and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

Section 2. The Code Authority shall have the following further powers and duties to the extent permitted by the Act, provided, however, that if the Administrator shall determine that any action of a code authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

(a) Submit to the Administrator such recommendations as in its judgment will have the effect of improving the Code or of improving the results secured thereunder, any of which recommendations when approved by the Administrator shall have the force and effect of provisions of this Code. Every recom-

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recommendation shall be made only after a careful canvass of the opinion of the industry. In submitting any recommendation to the Administrator, the aggregate number of members, as well as the aggregate productive capacity favoring or opposing the recommendation shall be indicated.

(b) Present to the Administrator recommendations based on conditions in the industry as they may develop from time to time which will tend to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act. Such recommendations shall, upon approval by the President become operative as a part of this Code.

(c) Make investigations as to the functioning and observance of any provisions of this Code, as its own instance or on complaint by any person affected.

(d) Hear and attempt to adjust complaints in accordance with law; approve standard forms of contracts which shall be subject to the approval of the Administrator; consider proposals for amendments to this Code and make recommendations to the Administrator thereon.

(e) Make rules and regulations necessary for the administration of this Code, subject to the right of any affected person to appeal to the Administrator.

Section 3. In order to provide data necessary for the administration of this Code, all members of the industry shall furnish to the Code Authority such information or

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reports as may be required, subject to the approval of the Administrator. Such information as may be submitted by a member shall not be revealed to anyone not a member of the Code Authority but shall at all times be available to the Administrator.

ARTICLE VII - TRADE PRACTICES

It shall be an unfair method of competition and a violation of this Code for any member of the industry to engage in any of the following practices:

Section 1. The false marking or branding of the products of the industry, with the intent of misleading or deceiving purchasers with respect to the quantity, quality, size, or substance of the goods purchased.

Section 2. Making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers or to affect injuriously the business of competitors.

Section 3. The imitation of the trade marks, trade names, slogans, or other marks of identification of competitors, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers, or to affect injuriously the business of such competitors.

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Section 4. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questionable credit standing, or by other false representation, or the false disparagement of the quality of their goods.

Section 5. Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers, or interfering with or obstructing the performance of any such contractual duties or services, with the purpose and effect of hampering, injuring, or embarrassing competitors in their business.

Section 6. Initiating negotiations with employees of competitors to induce them to violate their contracts.

Section 7. The payment or allowance to any customer of secret rebates, refunds, or credits, whether in the form of money or otherwise.

Section 8. Commercial bribery: giving, permitting to be given, or directly offering to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another relation to the business of the employer or such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal, or party; provided, however, that this shall not be construed to prohibit free and general distribution of articles commonly used for advertising

except so far as such articles are actually used for commercial bribery as hereinabove defined.

Section 8. Price guarantees shall not be given except in the following form:

On bona fide orders covering definite quantities of definite specifications, the price prevailing on the date the order is placed shall apply to all shipments made within eight weeks of the date of the order. On such shipments as may be deferred beyond the eight weeks' period, at the request of the customer, the price prevailing at the time of shipment shall apply.

Provided, however, that any written quotation accepted by a customer within ten days for shipment within eight weeks may be subject to the prices quoted.

Section 10. Each member of the Industry within twenty (20) days after the effective date of this Code shall file with the Code Authority a net price list or price list and discount sheet, as the case may be, and all special prices, freight allowances, and trade discounts, individually prepared by him, showing his current prices, or prices and discounts and terms, of sale and payment, and if he so desires, the names of his customers, to whom list prices are quoted. This information shall be open to examination at the office of the Code Authority, and each member of the Industry shall be entitled to an examination of the records thereof to the same

degree that he has furnished similar information. No member of the Industry shall deviate from his prices as thus filed unless and until revised lists, which shall become effective immediately upon filing shall have been filed with the Code Authority, copies of which shall in like manner be available for examination by all members of the Industry to the same degree as they may be supplying revised information. No advance notice of change in price shall be given to customers, prospective customers, or distributors. No member of the Industry shall sell his products at prices or on terms more favorable than those provided in his current net price list, or price list and discount sheet, as submitted to the Code Authority, except as otherwise provided herein nor shall he grant quantity prices except on the inclusion in one shipment of the quantity on which such price is granted, except as otherwise provided herein, and provided further that orders for one hundred thousand pounds or more of the product of the Industry may be delivered in separate shipments of not less than carload lots.

Section 11. Abrasive Grains may be furnished for trial purposes only under the following terms:

Full payment is to be made if grains are satisfactory, or if partially satisfactory and usable, to be paid for on the basis of value for used, or if/usable, to be used for full credit. Any deviation from these terms shall be con-

sidered as unfair competition.

Section 12. The accepting of orders for trial grains without definite assurance that such grains will be tried out promptly after being received should be discouraged.

Section 13. Giving or offering to give for free trial of abrasive grains in excess of fifteen pounds of any one size or kind at any one time is an abuse and hereby defined as unfair competition.

Section 14. Selling products at less than cost of production is hereby declared to be an unfair method of competition, except that three individual lots of abrasive grains recognized by the Code Authority as surplus stock may be offered or sold by any party to this Code for not less than 80.0 per cent of the highest price for like quantity of such size or sizes filed by said party; all such quotations or sales shall be immediately reported in writing to the Code Authority in the manner to be prescribed by it.

Section 15. Conditioning the sale of any particular material upon the purchase by a customer of other products of the supplier, or granting free door delivery of products to a customer excepting within the corporate limits of a City in which the supplier maintains a stock of his product, is defined as unfair competition.

ARTICLE VIII - MODIFICATION

Section 1. This Code, and all the provisions thereof,

expressly made subject to the right of the President, in accordance with the provisions of Sub-Section (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code, or any conditions imposed by him upon his approval thereof.

Section 5. This Code, except as to provisions required by the Act, may be modified or supplemented on the basis of experience or changes in circumstances, such modification to be based upon application by the Code Authority to the Administrator with such notice of hearing as he shall specify, and to become effective on approval by the President.

ARTICLE IX - MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE X - EFFECTIVE DATE

This Code shall become effective on the third Monday after its approval by the President and shall be binding upon every member of the industry.

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file.

EX-100

Brewer
Turn A

Assistant Deputy Dilworth: Now, Mr. Parker, if you want to speak for the Code Committee we will hear from you.

STATEMENT OF MR. ALAN V. PARKER REPRESENTING THE ABRASIVE GRAIN ASSOCIATION CODE COMMITTEE

Mr. Parker: Mr. Administrator and gentlemen: I represent the Abrasive Grain Association, which is an association organized about a year ago to represent the Abrasive Grain Industry.

There are seventeen known members of the Abrasive Grain Industry, of which twelve are members of the Association.

The twelve members of the Association represent substantially 90 per cent of the total productive capacity of the total industry.

Incidentally, I would like to say at this time that all of the known members of the industry have been given notice, either personally, or by telegram, by me of this hearing today.

The code as it is presented was prepared, and my purpose in appearing here today is to suggest certain deletions from the code, amendments, and two or three additions. The code of course as it is printed involves substantially the desire of the Association, but the amendments that I am about to propose have the unanimous vote of all of the members of the Association who were present at a regular meeting held last week, so that when I suggest these amendments they are amend-

ments which have the unanimous support of all of the industry represented by the Association. There are certain minor amendments which are mentioned in my letter to the Administrator, and unless the Administrator would like to have me touch on all of them I think we can omit them so far as this discussion is concerned.

Assistant Deputy Dilworth: I think if you will just make this letter a matter of record with these minor changes they can be brought up in the post-hearing conference, which will immediately follow this meeting, but there were two here of additions which I think should be read.

Mr. Parker: In accordance with the suggestion of the Administrator then I offer for the record the letter to Colonel Brady, dated March 18th relative to this code.

(The letter referred to is as follows:)

Abrasive Grain Association

United Building

Niagara Falls, New York

March 16, 1934

Mr. George A. Brady, Deputy Administrator

Room 4080, Department of Commerce Bldg.,

Washington, D. C.

RE: Abrasive Grain Industry Code of Fair Competition

Registry No. 1001/04

Dear Sir:

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In compliance with your letter of March 1, 1934 giving notice of hearing Number 864, request for opportunity to be heard is hereby made.

The persons seeking to testify in the hearing are:
Alan W. Parker, representing Abrasive Grain Association
Wallace F. Montague, representing the Norton Company
William MacGregor, representing the Carborundum Company

Henry Kirschner, representing the Carborundum Company
The matters upon which the above named persons desire to be heard are as follows:

- A proposal to amend Article 3, Section 3 (third line)
Strike out words "more than"
- A proposal to amend Article 3, Section 4, (third line)
Strike out words "or more"
- A proposal to amend Article 3, Section 7 (first line)
Insert after the word "employee" the words "exception watchmen"
- A proposal to amend Article 4, Section 1 (sixth line)
Strike out words "watchmen and"
- A proposal to amend Article 4, Section 4.
Strike out quotation marks at the beginning and at the end of the section.
- A proposal to amend Article 6, Section 1 (a) (third line)
Strike out word "four (4)" and insert in place thereof the word "seven (7)"

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- A proposal to amend Article 6, Section 1, (b) (fourth line)
After semicolon insert "and/"
 - A proposal to amend Article 6, Section 2 (a) (eighth line)
Strike out words "productive capacity" and insert in place thereof the words "annual domestic sales volume"
 - A proposal to amend Article 7, Section 10, (seventeenth and eighteenth lines)

Strike out words "no advance notice of change in price shall be given to customers, prospective customers or distributors."

- A proposal to amend Article 7, Section 10, (twenty-fourth, twenty-fifth and twenty-sixth lines)

Strike out comma after word "herein" and insert in place thereof a period. Strike out words "and provided further that orders for one hundred thousand pounds or more of the product of the industry may be delivered in separate shipments of not less than carload lots."

- A proposal to amend Article 7, Section 10, (twenty-third line)
Insert after the word "shipment" the words "to on destination"

- A proposal to amend Article 7, Section 16, (second line)
Strike out comma after word "supplier." Strike out words "or granting free door delivery of products to a customer excepting within the corporate limits of a city in which the supplier maintains a stock of his product"

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- A proposal to amend Article 7.
Add a new section to be numbered Section 15 to read as follows:

"Section 15. Placing any product of the industry in the possession of or under the control of a consumer customer, on consignment is hereby defined as unfair competition."

- A proposal to amend Article 7.
Add a new section to be numbered as Section 17, to read as follows:

"Section 17. If any member of the industry, acting in good faith, is unable to make delivery in one shipment of all the material ordered by a consumer customer, upon which order such customer has been granted a quantity price as defined herein, such member shall be permitted to make immediate shipment of the quantity or quantities of the product in his hands available for that purpose, and to complete shipment of the remainder of such order as soon as possible thereafter, provided however that each portion of such order to be known as a "split shipment" so shipped, shall be accompanied by an invoice which in each case shall show the total quantity of the order for such product, and the quantity of the product included in each individual invoiced shipment; invoices must be filed immediately with the Code Authority."

Yours very truly,

Mr. Parker: And I would like to call the Administrator's attention to another amendment that perhaps should be brought up at this time, which is not mentioned in that letter.

The proposed amendment I have in mind is one to Article 7, Section 1, (b), and it is supposed to strike out Article 7, Section 1, (b), as it is printed in the code, and substitute therefor the following so that the Section 1 shall read:

"Article 7, Section 1, (b): Each member of the industry shall bear his or its proportionate share of the expense of the Code Authority and the administration of the code."

Mr. Wallace T. Montague: (interposing) That should be Article 8, Mr. Parker.

Assistant Deputy Director: Article 7 is wrong.

Mr. Montague: Article 8, Section 1, (b).

Mr. Parker: Yes, Article 8, Section 1, (b): (continuing) " -- and the administration of the code, which proportions shall be based upon the gross domestic sales, or upon such other fair and equitable basis as the Code Authority may specify, subject to review by the Administrator, and such funds shall be collected by the Code Authority."

Of course, the purpose of that amendment is obvious. As the code is now written it is doubtful in my mind whether or not the Code Authority would be able to properly assess the cost of the administration upon all of the members of the in-

dustry. As it is now written it seems to me that the Code Authority would either have to receive its money from the Trade Association, the Abrasive Trade Association, or could only assess the cost of its administration against those members of the industry who are willing to pay it. The purpose of the proposed amendment is to permit the Code Authority to collect from the whole industry, subject to review by the Administrator.

The next item is a proposal to amend Article 7 by a new section, to be numbered Section 10, and to read as follows:

"Section 10. Placing any product of the industry in the possession of or under the control of a consumer's customer on consignment is hereby defined as unfair competition."

Now, by Section 10 of the code as it is now written an open price supporting agreement is provided for, and it appears to me and to other members of the code committee and of the Association that if consignment to customer's customers was not prohibited that a loophole would be opened, through which the price advance and price evasions of the price clause might be consummated.

The proposed amendment, as you will see, does not prohibit the consignment to dealers and to distributors, but it does prohibit consignment to consumer's use, who might in contemplation perhaps of a price advance order -- on consignment

without paying for it large quantities of grain.

The next proposal is to add a new section, to be entitled: "Article 7, Section 17", and to read as follows:

"Section 17. If any member of the industry, acting in good faith, is unable to make delivery in one shipment of all the material ordered by a consumer customer, upon which order such customer has been granted quantity prices as defined herein, such member shall be permitted to make immediate shipment of the quantity or quantities of the product in his hands available for that purpose, and to complete shipment of the remainder of such order as soon as possible thereafter, provided however, that each portion of such order to be known as a "split shipment" so shipped, shall be accompanied by an invoice which in each case shall show the total quantity of the order for such product, and the quantity of the product included in each individual invoiced shipment; invoices must be filed immediately with the Code Authority."

The purpose of the proposed amendment is to permit a manufacturer of grains, who may receive a large order for various sizes of grains, and incidentally I may say that the sizes are something like forty different sizes of grains more or less, and he may not have some of these sizes in stock, but the code as it is now written limits price guaranteed to eight weeks and for delivery in eight weeks, and it is quite conceivable that a manufacturer might not have the full order on hand. In

order to be fair to him and at the same time to be fair to the other members of the industry. It is provided he may make split shipments. In other words, may ship immediately the grains that he has on hand, provided he files with the Code Authority an invoice showing the total order, showing the total amount shipped, and that hereafter, as he makes shipments he file invoices with the Code Authority, showing the shipments, as they are furnished not until the whole order is completed.

It is a provision which we think would provide or insure fair dealing and protection of one member of the industry against unfair competition by another.

Now, with the exception of those changes that we have passed over I have mentioned all of the changes that I propose. Assistant Deputy Dilworth: Is there anybody else? I have no requests to be heard with this exception.

I will take up the code now here article by article, and see if there are any other points that want to be brought out.

Article I, Purposes. (No response.) Article II, Definition. (No response.) Article III, Hours. (No response.)

Mr. Virgil Banks: (Labor Advisory Board) I would like to say a word concerning hours.

Assistant Deputy Dilworth: All right, sir.

Mr. Banks: At the preliminary conference the suggestion

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was made by the Labor Advisor that a 36 hour week be established for the industry, and of course the code contains right at the present time the provision for a 40 hour week.

The subject was left open at that time, to be discussed more fully at the public hearing. Since that time of course there has been the general code conferences, in which all of the code authorities were represented, and in which the general suggestion was made for a 10 per cent reduction in hours, and I am wondering if this particular Code Committee has given that further consideration.

Mr. Parker: We have given it consideration, yes.

Mr. Banks: Of course, we can discuss that at the post-hearing conference, but I am making the suggestion that we do establish, if possible, the 36 hour week for the industry.

Assistant Deputy Dilworth: If agreeable then we will carry on the discussion of that in a post-hearing conference.

Mr. Banks: Yes sir.

Assistant Deputy Dilworth: I think it could be done more satisfactorily.

Mr. Banks: Also on Section 4 of this same Article, after the Sections 1 and 3 in the first line I suggest that "and six" be added.

Mr. Parker: I did not get that.

Assistant Deputy Dilworth: I do not understand that

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either.

Mr. Mahoney: Was that merely a change in wording?

Mr. Banks: No. It is a change in meaning as well. That is in the first sentence. "All employers to whom Sections 1 and 3" is the way it is worded, and I would suggest that you add "and six".

Mr. Parker: Oh, that is all right.

Assistant Deputy Dilworth: Mr. Banks, I think changes of that kind can be made in the post-hearing, so that I would suggest that if there are any other ones in any of these other articles that we have that we carry those through into the post-hearing too.

Mr. Banks: That is perfectly agreeable to me.

Assistant Deputy Dilworth: If it is simply a question of change, or slight changes in the Articles.

Article V. (No response.) Article VI. (No response.) IX and X. (No response.) Are the usual provisions, so that I do not suppose there is any questions.

Mr. Parker, in connection with your proposal just made on the question of consignment sales, are consignment sales generally made in your industry?

Mr. Parker: I would not say so, would you?

Mr. Wallace T. Montague: No, I would not say so, no.

Mr. Parker: No, I would not say that they are generally made at this time or have been made in the past.

Assistant Deputy Dilworth: Was this proposed amendment voted on at this meeting where all the members were present at the Southern Times? Was it?

Mr. Parker: Yes sir. Every proposal I have mentioned this morning received the unanimous approval of the Association at the regular annual meeting held last week.

Mr. Hancock: Mr. Administrator, the further changes and suggestions that I have to offer deal first with Article IV, Wages. I would urge that the flat 40 cent minimum be established in all sections of the country, and the southern differential be eliminated.

In that same suggestion I would urge that the words "watchmen" and "learners" be deleted, and I might say in this particular regard that it was particularly stressed by the code authorities themselves at the general conferences that the provisions of codes should materially tighten, and that such provision, sweeping watchmen and learners and so forth from minimum wages would only be playing in the hands of the objectionable element, and I would suggest that the following clause be added to this section:

"This minimum wage applies only to unskilled labor. Other workers, including piece workers, shall be paid at a wage above the minimum."

And section 2, add the words "or other piece work rates" after "hourly" in the third line.

Article V, General Labor Provisions, Section 1, the following sentence should be added:

"The Code Authority shall submit to the Administrator for approval within three months after the effective date of this code a list of operations or occupations hazardous in nature or detrimental to health."

Section 7, the following sentence should be added:

"Standards for safety and health shall be submitted by the Code Authorities to the Administrator for approval within six months after the effective date of this code."

And Section 8, in conjunction with the general policy of shortening hours, I would like for this section to be added:

"The Code Authority shall make a study of conditions in the industry to determine the feasibility of the adoption of a shorter working week and day, and shall within three months after the effective date of this code make a report of its findings to the Administrator. The Code Authority shall also submit to the Administrator within six months after the effective date of this code a plan for the stabilization and regularization of employment."

"Section 9. No employe not employed at a rate in excess of the minimum shall be discharged and be reemployed at a lower rate for the purpose of evading the provisions of this code."

And section 10: "No employe shall be dismissed by reason of making a complaint or giving evidence with respect to a

violation of the code."

As to Section 11, that is out.

Assistant Deputy Dilworth: If there is nothing further we will adjourn the meeting until two weeks from today.

Mr. Montague: Mr. Chairman, before adjournment is it in order to ask a question here as to the meaning here in Article IV, section 1 -- prior to adjournment?

Assistant Deputy Dilworth: Yes sir.

Mr. Montague: Does that per week of 40 hours mean a guaranteed week of 40 hours? I would think that the wording there is slightly ambiguous, and I would propose, if it is in order, a clarification to read, "up to 40 hours a week", instead of per week, unless that has already been interpreted not to be a guarantee of a 40 hour week.

Assistant Deputy Dilworth: All right. We will allow that is a part of the record, and we can discuss that in the post-hearing conference.

Mr. Culver: (Consumers' Adviser) Mr. Administrator, I happened to be called out, and as to the Consumers' Advisory Board there are one or two notations that I would like to appear of record.

Assistant Deputy Dilworth: You would like those to appear of record?

Mr. Culver: Yes.

Assistant Deputy Dilworth: All right.

Mr. Oliver: With reference to suggestions here, and this is in Article VI, Section 2, paragraph (d), it refers to approved standard forms of contracts. The Consumers' Advisory are opposed to a standard form of contract.

Then on Article VII, Trade Practices, Section 11 and Section 13 seem to be in conflict.

In Section 14 we object to the limitations on the sale of what might be called distressed merchandise by the Code Authority.

That is all.

Assistant Deputy Dilworth: Is there anything else before the meeting is adjourned? If there is not it is then recessed until two weeks from today in my office, we will go into a post-hearing conference right now, if it is agreeable to every one.

Two weeks from today at 3047, Department of Commerce Building.

Mr. Parker: At ten o'clock?

Assistant Deputy Dilworth: Yes, ten a.m.

(Whereupon, at 10:40 a.m. o'clock the hearing was recessed, subject to the call of the Administrator.)

Edwinston
Kern

NATIONAL RECOVERY ADMINISTRATION

Washington, D. C.

Wednesday, April 4, 1934

ADJOURNED HEARING ON THE CODE OF FAIR COMPETITION FOR THE ABRASIVE GRAINS INDUSTRY

The adjourned hearing on the code of fair competition for the abrasive grains industry was called to order at 10:00 o'clock a.m., in Room 3047, Department of Commerce Building, Washington, D. C., Assistant Deputy Administrator Joseph Dilworth presiding.

There were present also:

Of the Legal Division:

Mr. Robert E. Devlin and Mr. Lawrence T. Mahoney.

Mr. Alan V. Parker, representing the Abrasive Grains Association code committee.

Mr. H. F. Kirchner, of the Carborundum Company.

The meeting was recessed until 2 o'clock p.m., this date, to be resumed in Room 3048, Department of Commerce Building, Washington, D. C.

AFTERNOON SESSION

Assistant Deputy Dilworth: At the recessed meeting at two

o'clock, Mr. Alan V. Parker, secretary of the Abrasive Grains Association stated that, in view of certain changes in the code which the Legal Department had stated were necessary, he would have to refer the revised code back to the members of the industry; and, as a consequence thereof, the meeting was recessed until April 11, at 9 o'clock a.m., in Room 3048, Department of Commerce Building.

(Whereupon, at 2:00 o'clock p.m., the hearing in the above-entitled matter was adjourned until April 11, 1934, at 9 o'clock a.m., in Room 3048, Department of Commerce Building, Washington, D. C.)

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Mr. Allen V. Parker
Secretary of the Abrasive Grain
Association

NATIONAL RECOVERY ADMINISTRATION
Washington, D. C.
April 11, 1934.

HEARING ON
CODE OF FAIR COMPETITION
FOR THE
ABRASIVE GRAIN INDUSTRY

The above-entitled matter came on for hearing at 9:30 o'clock a. m., 2045 Department of Commerce Building, Washington, D. C., Assistant Deputy Administrator J. L. Marriot presiding.

There were present also:

Of the Labor Advisory Board:

Virgil Backus

Of the Consumers' Advisory Board:

E. L. Oliver

Of the Planning and Research Division:

R. E. Lyle

Of the Legal Division:

Robert S. Kenvir

PROCEEDINGS

Assistant Deputy Marriot: Pursuant to the adjournment of April 4, this hearing is resumed at 9:30 o'clock a. m., April 11, 1934, in this room, 2045, of the Department of Commerce Building.

STATEMENT OF ALLEN V. PARKER

Secretary of Abrasive Grain Association.

Mr. Parker: Mr. Deputy Administrator, for the purpose of the record, I desire to state that on March 31, 1934 copies of the proposed code as amended until that date were submitted by me to all the known members of the industry, and with the exception of two members, who especially withheld their assent to the code as written at that date, and the exception of two other members of the industry who did not reply to the letter of transmittal accompanying that copy of the code, the known members of the industry assenting thereto.

On April 4, at the time of the last hearing on this matter, several changes have been made in the draft as submitted to the industry, and at that time I felt that it was desirable to discuss the changes so made with the directors of the Abrasive Grain Association. Since April 4, I have submitted the changes to the Directors of the Association. The Directors to whom the changes were so submitted rep-

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recent units of the industry of about 75% of the total
productive capacity of the industry. The directors have
not raised any question as to the changes, and have not
withdrawn the authority previously given to the assent to
the code.

I offer now a copy of a resolution of the board of
directors of the Abrasive Grain Association, authorizing me,
on behalf of the Association and of the industry, to assent
to the code of the industry.

Deputy Harrie: Very well, it may be made a part of
record.

EXTRACT FROM MINUTES OF A MEETING OF THE DIRECTORS OF
ABRASIVE GRAIN ASSOCIATION, HELD AT MID-PINES CLUB,
NORTH CAROLINA, MARCH 18, 1934.

Mr. Montague offered the following resolution and
moved its adoption. The motion was seconded by Mr. Hardy.

"Resolved, That Alan V. Parker, Secretary of this
Association, be and he hereby is authorized, empowered, and
directed to assent to the Code of Fair Competition of
Abrasive Grain Industry on behalf of the Industry and of
Abrasive Grain Association."

The motion being put to a vote was unanimously carried
and the resolution adopted.

Dated: March 18, 1934,

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Alan V. Parker being duly sworn, says that he has
read the foregoing extract and that the same is a true copy
of a resolution adopted as aforesaid.

(Signed) Alan V. Parker

Subscribed and Sworn to before me this 11 day of April, 1934

(Signed) Clara M. Richardson

Notary Public.

Assistant Deputy Harrie: There being no other witnesses
to testify to this matter, the hearing will be recessed,
subject to the call of the Deputy Administrator.

(Whereupon, at 9:41 o'clock a.m., the hearing was
adjourned subject to the call of the Administrator.)

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